

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated February 10, 2009. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-14 are pending in the Application. Claims 12-14 are added by this amendment. By means of the present amendment, claims 1-11 are amended including for better conformance to U.S. practice, such as deleting reference numerals typically used in European practice that are known to not limit the scope of the claims. Further amendments include changing "characterized in that" to -- wherein--, and amending dependent claims to begin with "The" as opposed to "A". By these amendments, claims 1-11 are not amended to address issues of patentability and Applicant respectfully reserves all rights under the Doctrine of Equivalents. Applicant furthermore reserves the right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications.

By means of the present amendment, the Abstract has been deleted and substituted with the enclosed New Abstract which better conforms to U.S. practice.

Applicant thanks the Examiner for acknowledging the claim for priority and receipt of certified copies of all the priority document(s).

Applicant thanks the Examiner for acknowledging receipt and consideration of an Information Disclosure Statement filed on February 14, 2006.

In the Office Action, it is suggested that the specification include section headings. Applicant notes the suggestion however respectfully declines to add the headings since the section

headings are not required and may be inappropriately utilized in interpreting the claimed subject matter.

In the Office Action, claims 1-11 are rejected under 35 U.S.C. §103(a) over European Patent Publication No. WO 01/15582 to Kraan ("Kraan"). This rejections is respectfully traversed. It is respectfully submitted that claims 1-14 are allowable over Kraan for at least the following reasons.

Kraan shows protrusions, such as in FIG. 1, that have a shape of circular arcs. The Applicant recognized that although Kraan shows prtrusions, "the pad tends to stick to the hinging upper wall in the disclosed device, despite the presence of the protrusions." It is the Applicant that recognized that "the tendency to stick can be decreased when certain dimensions of the protrusions are applied." (See, present application, page 2, lines 23-28.)

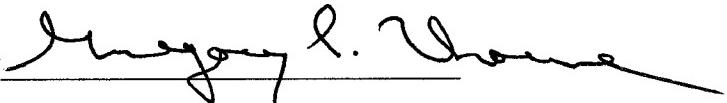
It is respectfully submitted that the beverage making device of claim 1 is not anticipated or made obvious by the teachings of Kraan. For example, Kraan does not teach, disclose or suggest, a beverage making device that amongst other patentable elements, comprises (illustrative emphasis added) "a substantial portion of the surface of said upper wall is provided with protrusions having a height of more than 0.5 mm, the distance between every two neighboring protrusions being less than 12 mm, wherein side walls of the protrusions joining the surface of said upper wall are substantially straight" as recited in claim 1, and as similarly recited in claim 11.

Based on the foregoing, the Applicant respectfully submits that independent claims 1 and 11 are patentable over Kraan and notice to this effect is earnestly solicited. Claims 2-10 and 12-14 respectively depend from one of claims 1 and 11 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicant has made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

Gregory L. Thorne, Reg. 39,398
Attorney for Applicant(s)
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THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101